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EXAMINER

MORGAN, ROBERT W

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/275,887
Filing Date: March 25, 1999
Appellant(s): OFFUTT ET AL.

MAILED

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GROUP 3600

Andrew T. Spence
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/2/07 appealing from the Office action mailed 8/17/06.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,732,398	TAGAWA	3-1998
4,879,648	COCHRAN et al.	11-1989
5,948,040	DeLORME et al.	9-1999

5,897,620

WALKER et al.

4-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4, 12-13, 15, 21, 23-24, 26, 35-36, 43-48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. U.S. Patent No. 5,732,398 to Tagawa in view of U.S. Patent No. 4,879,648 to Cochran et al.

As per claims 1 and 43, Tagawa teaches interactive travel service system that includes a user pressing a button for local or intrastate tour packages (216, Fig. 3) using a CPU (78, Fig. 3) that activates a routine illustrated in Fig. 7A-7C (see: column 14, lines 16-18). For example, in the Hawaii market (original location), a list of major tour packages (400, 402, Fig. 7a) is between the islands of Oahu, Kauai, Maui, Molokai, Lanai and Hawaii (the Big Island) (destination location and alternative destination) (see: column 14, lines 18-24). In addition, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50).

Tagawa fails to teach proximity tolerances specifying a user's acceptable distance range.

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Cochran et al. teaches in one particular embodiment, a structured database of hotel and resort information records are searched and records are selected using any of the following qualifiers or selected search terms: proximity to another location, e.g. larger city, number of accommodations available; proximity to specific area of interest such as a tourist attractions, business location or airports (see: column 5, lines 63 to column 6, lines 7). Cochran et al. further teaches that the selected search terms for searching through the structured database include a search method that displays "IF APT. CODE THEN" section including parameter for the user to determine the appropriate distance to search from a particular hotel, tourist attractions, business location or airports (see: Fig. 4).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include the searching and recording of proximity to specific area of interest such as a tourist attractions, business location or airports as taught by Cochran et al. with the system as taught by Tagawa with the motivation of qualify the search through the data base or identify which of the further categories will be made available to the user (see: Cochran et al.: column 4, lines 49-52).

Claims 12, 23, 35, and 36 are substantially similar and parallel the limitations found in amended claim 1 in computer readable medium and system (apparatus) formats and are rejected for similar reasons.

As per claim 2, Tagawa teaches the claimed report includes the travel itinerary specified in the request, each of the alternative itineraries, the value for each travel itinerary, and the savings in travel costs is based on a difference between the value for the travel itinerary specified in the request and each of the alternative itineraries. This limitation is met at Fig. 3, a user is

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asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). The Examiner considers the display of a flight schedule with prices as a report.

Claims 13 and 24 are substantially similar and parallel the limitations found in claim 2 in computer readable medium and system (apparatus) formats and are rejected for similar reasons.

As per claim 4, Tagawa teaches that a user is asked whether he or she has hotel reservation preference and if the user indicates by pressing the "yes" button the system proceed to present a listing of all lodging choices (see: column 12, lines 45-49).

Tagawa fails to teach proximity tolerance.

Cochran et al. teaches in one particular embodiment, a structured database of hotel and resort information records are searched and records are selected using any of the following qualifiers or selected search terms: proximity to another location, e.g. larger city, number of accommodations available; proximity to specific area of interest such as a tourist attractions, business location or airports (see: column 5, lines 63 to column 6, lines 7). Cochran et al. further teaches that the selected search terms for searching through the structured database include a search method that displays "IF APT. CODE THEN" section including parameter for the user to determine the appropriate distance to search from a particular hotel, tourist attractions, business location or airports (see: Fig. 4).

The obviousness of combining the teachings of Cochran et al. within the teachings Tagawa are discussed in rejection of claim 1, and incorporated herein.

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Claims 15 and 26 are substantially similar and parallel the limitations found in claim 4 in computer readable medium and system (apparatus) formats and are rejected for similar reasons.

As per claim 21, Tagawa teaches interactive travel service system that includes a user pressing a button for local or intrastate tour packages (216, Fig. 3) using a CPU (78, Fig. 3) that activates a routine illustrated in Fig. 7A-7C (see: column 14, lines 16-18). For example, in the Hawaii market (original location), a list of major tour packages (400, 402, Fig. 7a) is between the islands of Oahu, Kauai, Maui, Molokai, Lanai and Hawaii (the Big Island) (destination location and alternative destination) (see: column 14, lines 18-24). In addition, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50).

Tagawa fails to teach proximity tolerances specifying a user's acceptable distance range.

Cochran et al. teaches in one particular embodiment, a structured database of hotel and resort information records are searched and records are selected using any of the following qualifiers or selected search terms: proximity to another location, e.g. larger city, number of accommodations available; proximity to specific area of interest such as a tourist attractions, business location or airports (see: column 5, lines 63 to column 6, lines 7). Cochran et al. further teaches that the selected search terms for searching through the structured database include a search method that displays "IF APT. CODE THEN" section including parameter for the user to determine the appropriate distance to search from a particular hotel, tourist attractions, business location or airports (see: Fig. 4).

The obviousness of combining the teachings of Cochran et al. within the teachings Tagawa are discussed in rejection of claim 1, and incorporated herein.

As per claim 44, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). The Examiner considers the display of the flight schedules (including alternative flights) with prices to be completed without user intervention.

Tagawa fails to teach proximity tolerances specifying a user's acceptable distance range.

Cochran et al. teaches in one particular embodiment, a structured database of hotel and resort information records are searched and records are selected using any of the following qualifiers or selected search terms: proximity to another location, e.g. larger city, number of accommodations available; proximity to specific area of interest such as a tourist attractions, business location or airports (see: column 5, lines 63 to column 6, lines 7). Cochran et al. further teaches that the selected search terms for searching through the structured database include a search method that displays "IF APT. CODE THEN" section including parameter for the user to determine the appropriate distance to search from a particular hotel, tourist attractions, business location or airports (see: Fig. 4).

The obviousness of combining the teachings of Cochran et al. within the teachings Tagawa are discussed in rejection of claim 1, and incorporated herein.

As per claim 45, Tagawa teaches the claimed first value reflects a cost of travel between the origination and destination locations. This feature is met at Fig. 3, where a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of

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travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50).

As per claim 46, Tagawa teaches the claimed first value further includes a cost of lodgings. The limitation is met at Fig. 3, where user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). In addition, Tagawa teaches in another embodiment, that a user is asked whether he or she has hotel reservation preference and if the user indicates by pressing the "yes" button the system proceed to present a listing of all lodging choices (see: column 12, lines 45-49).

As per claim 47, Tagawa teaches interactive travel service system that includes a user pressing a button for local or intrastate tour packages (216, Fig. 3) using a CPU (78, Fig. 3) that activates a routine illustrated in Fig. 7A-7C (see: column 14, lines 16-18). For example, in the Hawaii market (original location), a list of major tour packages (400, 402, Fig. 7a) is between the islands of Oahu, Kauai, Maui, Molokai, Lanai and Hawaii (the Big Island) (destination location and alternative destination) (see: column 14, lines 18-24). In addition, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50).

As per claim 48, Tagawa teaches the claimed alternate value is equal to or less than the first value. This feature is met at Fig. 3, where a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of

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travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50).

As per claim 50, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). The Examiner considers the display of the flight schedules (including alternative flights) with prices to be completed without user intervention.

Tagawa fails to teach proximity tolerances specifying a user's acceptable distance range.

Cochran et al. teaches in one particular embodiment, a structured database of hotel and resort information records are searched and records are selected using any of the following qualifiers or selected search terms: proximity to another location, e.g. larger city, number of accommodations available; proximity to specific area of interest such as a tourist attractions, business location or airports (see: column 5, lines 63 to column 6, lines 7). Cochran et al. further teaches that the selected search terms for searching through the structured database include a search method that displays "IF APT. CODE THEN" section including parameter for the user to determine the appropriate distance to search from a particular hotel, tourist attractions, business location or airports (see: Fig. 4).

The obviousness of combining the teachings of Cochran et al. within the teachings Tagawa are discussed in rejection of claim 1, and incorporated herein.

(B) Claims 1, 12, 21, 23, 43-44 and 50 have been amended to now recite the step of "...a user specifying a travel itinerary that includes a selected originating location and a selected destination location" and "...analyzing the travel itinerary specified in the request including the

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selected originating and destination locations, to determine a set of alternative itineraries different than the travel itinerary specified in the request”.

As per this limitation, Tagawa teaches at Fig. 3, that a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). In addition, Tagawa teaches at block 312, a user is instructed to press a HELP button that will cause a sub-routine to be activated to offer one or two choices that are different from the first recommended choice based on the predetermined priority system (see: column 13, lines 11-17). Furthermore, Tagawa teaches that after a user selects destination, the destination area selected may be further refined. For example, if the destination is Las Vegas, the system will query the user make a decision on three possible destination areas: along the Las Vegas Strip, downtown Las Vegas, or properties off the Strip (see: column 16, lines 55-60). This clearly indicates that a user specifies an origin and destination and is later shown one or two choices different from the first choice.

The other changes are merely grammatical, but otherwise do not affect the scope and breath of the claim as originally presented and/or in the manner in which the Examiner when applying prior art with the previous Office Action interpreted the claims. As such, the recited claims features of claims 1, 12, 21, 23, 43-44 and 50 are rejected for the same reasons given in the prior Office Action, and incorporated herein.

5. Claims 5-8, 16-19, 27-30, 49 and 51 are rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. U.S. Patent No. 5,732,398 to Tagawa in view of U.S. Patent

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No. 4,879,648 to Cochran et al. as applied to claim 1, further in view of U.S. Patent No. 5,948,040 to DeLorme et al.

As per claim 5, Tagawa and Cochran et al. fail to teach the claimed receiving step includes assigning geographical coordinates for each of the originating location and the destination.

DeLorme discloses the use of geographical ranges with coordinates with which to evaluate alternative travel routes and itineraries (see: column 57, starting at line 1 and further in Figure 7A). The routes taught by DeLorme include different and various routes and accommodations in accordance with user preferences and sorting criteria. One skilled in the art would be motivated to have users specify a range of locations with which to evaluate travel itineraries in an effort to reach an optimum itinerary with respect to price, time required, suitability of accommodations, and other concerns of a traveler. Therefore, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to incorporate the geographical range of locations taught by DeLorme in the system of Tagawa and Cochran et al.

Claims 16 and 27 are substantially similar and parallel the limitations found in claim 5 in computer readable medium and system (apparatus) formats and are rejected for similar reasons.

As per claim 6, Tagawa and Cochran et al. fail to teach analyzing step includes generating a set of locations with coordinates located within a predetermined range of the destination based on information from a geographical coordinates database.

DeLorme (see column 57, starting at line 1 and further in Figure 7A) teaches that the sorting (i.e., analyzing) step generates a list of alternate locations from which to base the user's

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travel itinerary. DeLorme further teaches that the list of alternate locations is generated by sorting the geographic relations by latitude and longitude (see Figure 7A).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include using a database comprising geographical coordinates for sorting criteria with the system of Tagawa and Cochran et al. with the motivation of having users specify a range of locations with which to evaluate travel itineraries in an effort to reach an optimum itinerary with respect to price, time required, suitability of accommodations, and other concerns of a traveler.

Claims 17 and 28 are substantially similar and parallel the limitations found in claim 6 in computer readable medium and system (apparatus) formats and are rejected for similar reasons.

As per claim 7, Tagawa and Cochran et al. teach at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: Tagawa: column 15, lines 25-50 and column 11, lines 60 to column 12, lines 17).

Tagawa and Cochran et al. fail to explicitly teach the claimed step of generating a set of location includes reducing the range when a number of locations in the set exceed a predetermined number.

DeLorme teaches that geographical coordinates are used to determine itinerary components for users of the travel reservation and planning system (see: column 56, starting at line 15 and further in Figures 2, 4, and 7).

The obviousness of combining the teachings of DeLorme with the teachings Tagawa and Cochran et al. are discussed in rejection of claim 6, and incorporated herein.

Claims 18 and 29 are substantially similar and parallel the limitations found in claim 7 in computer readable medium and system (apparatus) formats and are rejected for similar reasons.

As per claim 8, Tagawa and Cochran et al. teach at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: Tagawa: column 15, lines 25-50 and column 11, lines 60 to column 12, lines 17).

Tagawa and Cochran et al. fail to explicitly teach the claimed step of generating a set of locations includes increasing the range when a number of locations in the set are smaller than a predetermined number.

DeLorme teaches that geographical coordinates are used to determine itinerary components for users of the travel reservation and planning system (see: column 56, starting at line 15 and further in Figures 2, 4, and 7). Even if the user's original constraints on travel are too narrow to produce a plausible itinerary on the first pass, a more relaxed constraint may produce an acceptable travel alternative.

The obviousness of combining the teachings of DeLorme with the teachings Tagawa and Cochran et al. are discussed in rejection of claim 6, and incorporated herein.

Claims 19 and 30 are substantially similar and parallel the limitations found in claim 8 in computer readable medium and system (apparatus) formats and are rejected for similar reasons.

As per claim 49, Tagawa teaches interactive travel service system that includes a user pressing a button for local or intrastate tour packages (216, Fig. 3) using a CPU (78, Fig. 3) that activates a routine illustrated in Fig. 7A-7C (see: column 14, lines 16-18). For example, in the Hawaii market (original location), a list of major tour packages (400, 402, Fig. 7a) is between the

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islands of Oahu, Kauai, Maui, Molokai, Lanai and Hawaii (the Big Island) (destination location and alternative destination) (see: column 14, lines 18-24). In addition, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50).

Tagawa fails to teach proximity tolerances specifying a user's acceptable distance range.

Cochran et al. teaches in one particular embodiment, a structured database of hotel and resort information records are searched and records are selected using any of the following qualifiers or selected search terms: proximity to another location, e.g. larger city, number of accommodations available; proximity to specific area of interest such as a tourist attractions, business location or airports (see: column 5, lines 63 to column 6, lines 7). Cochran et al. further teaches that the selected search terms for searching through the structured database include a search method that displays "IF APT. CODE THEN" section including parameter for the user to determine the appropriate distance to search from a particular hotel, tourist attractions, business location or airports (see: Fig. 4).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include the searching and recording of proximity to specific area of interest such as a tourist attractions, business location or airports as taught by Cochran et al. with the system as taught by Tagawa with the motivation of qualify the search through the data base or identify which of the further categories will be made available to the user (see: Cochran et al.: column 4, lines 49-52).

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Tagawa and Cochran et al. fail to teach providing a report including a geographical map that contains:

- the claimed graphical representation of the origination location, destination location, and each alternate location,

- the claimed graphical representation of a first path between the origination and destination locations and a corresponding cost of travel for the first path, and

- the claimed graphical representation of an alternate path between each alternate location and either the origination or destination locations and a corresponding cost of travel for each respective alternate path.

DeLorme teaches the use of geographical ranges with coordinates needed to evaluate alternative travel routes and itineraries (see: column 57, line 1 and Fig. 7A). The routes include different and various routes and accommodations in accordance with user preferences and sorting criteria.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the geographical range of location as taught by DeLorme within system as taught by Tagawa and Cochran et al. with the motivation to have users specify a range of locations with which to evaluate travel itineraries in an effort to reach an optimum itinerary with respect to price, time required, suitability of accommodations, and other concerns of a traveler.

As per claim 51, Tagawa and Cochran et al. teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of

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travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: Tagawa: column 15, lines 25-50).

Tagawa and Cochran et al. fail to teach the claimed the travel cost for each route is presented adjacent to the graphical representation of the respective route on the map.

DeLorme teaches a map display (152, Fig. 3), which facilitates the topical information, for example, by means of "located" symbols, text or tables indicating price information, which the examiner considers as an addition to the map display (see: column 25, lines 29-35).

The motivation for combining the respective teachings of DeLorme with the system of Tagawa and Cochran et al. are discussed above in the rejection of claim 50, and incorporated here.

6. Claims 11, 22, 33-34 and 37-42 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. U.S. Patent No. 5,732,398 to Tagawa in view of Walker et al. in U.S. Patent Number 5,897,620.

As per claims 11, 37 and 38, Tagawa teaches interactive travel service system that includes a user pressing a button for local or intrastate tour packages (216, Fig. 3) using a CPU (78, Fig. 3) that activates a routine illustrated in Fig. 7A-7C (see: column 14, lines 16-18). For example, in the Hawaii market (original location), a list of major tour packages (400, 402, Fig. 7a) is between the islands of Oahu, Kauai, Maui, Molokai, Lanai and Hawaii (the Big Island) (destination location and alternative destination) (see: column 14, lines 18-24). In addition, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50).

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Tagawa fails to teach at least one price-to-beat request to a plurality of service providers reflecting information on the travel itinerary with a value associated with the determined value for the travel itinerary specified in the request and the determined value for each of the alternative itineraries.

Walker teaches a method and apparatus for the sale of flight tickets where the user submits a bid to purchase an unspecified-time ticket for a specific itinerary, and that the traveler is willing to pay \$375 for the ticket (see column 6, lines 45-51). That is, a price-to-beat request is sent to a selected service provider with a value associated with the determined value for the travel itinerary. Further, Walker discloses that the reservation system, after determining that the traveler may be supplied with a ticket conforming to their time and value constraints, prints a ticket for the actual flight with the actual flight number and the departure/arrival times. The airline then transmits the ticket to the traveler (see column 15, lines 3-17). In this fashion, the traveler receives a response from the service provider with information and a value on a travel itinerary.

One of ordinary skill in the art at the time the invention was made would have found it obvious to include price-to-beat request as taught by the Walker within the system as taught by Tagawa with the motivation of allowing travel providers to fill otherwise unoccupied seats on confirmed flights while traveler benefit by not paying full fare prices for these available seats.

Claims 22, 33, 34, 39-42 are substantially similar and parallel the limitations found in claim 11 in computer readable medium and system (apparatus) formats and are rejected for similar reasons.

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(B) Claims 11, 22 and 33-34 have been amended to now recite the step of "...a user specifying a travel itinerary that includes a selected originating location and a selected destination location" and "...analyzing the travel itinerary specified in the request including the selected originating and destination locations, to determine a set of alternative itineraries different than the travel itinerary specified in the request".

As per this limitation, Tagawa teaches at Fig. 3, that a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). In addition, Tagawa teaches at block 312, a user is instructed to press a HELP button that will cause a sub-routine to be activated to offer one or two choices that are different from the first recommended choice based on the predetermined priority system (see: column 13, lines 11-17). Furthermore, Tagawa teaches that after a user selects destination, the destination area selected may be further refined. For example, if the destination is Las Vegas, the system will query the user make a decision on three possible destination areas: along the Las Vegas Strip, downtown Las Vegas, or properties off the Strip (see: column 16, lines 55-60). This clearly indicates that a user specifies an origin and destination and is later shown one or two choices different from the first choice.

The other changes are merely grammatical, but otherwise do not affect the scope and breath of the claim as originally presented and/or in the manner in which the Examiner when applying prior art with the previous Office Action interpreted the claims. As such, the recited claims features of claims 11, 22 and 33-34 are rejected for the same reasons given in the prior Office Action, and incorporated herein.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 10 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,732,398 to Tagawa.

As per claim 10, Tagawa teaches interactive travel service system that includes a user pressing a button for local or intrastate tour packages (216, Fig. 3) using a CPU (78, Fig. 3) that activates a routine illustrated in Fig. 7A-7C (see: column 14, lines 16-18). For example, in the Hawaii market (original location), a list of major tour packages (400, 402, Fig. 7a) is between the islands of Oahu, Kauai, Maui, Molokai, Lanai and Hawaii (the Big Island) (destination location and alternative destination) (see: column 14, lines 18-24). In addition, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50).

As per claim 32, it is substantially similar and parallel the limitations found in claim 10 in computer system (apparatus) formats and are rejected for similar reasons.

(10) Response to Argument

In the Appeal Brief filed 2 February 2007, Appellant makes the following arguments:

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(A) Tagawa does not teach or suggest analyzing a travel itinerary, including a selected originating location or destination location, to determine a set of alternative itineraries different than the travel itinerary.

(B) Tagawa does not teach or suggest that its option to purchase airline tickets includes sub-routine feature offering choices different from a recommended choice.

(C) Tagawa nor the Cochran patent taken individually or in combination, teach or suggest receiving or providing a request including proximity tolerance specifying a user's acceptable range for alternative itineraries, or identifying an alternative itinerary that includes an alternative origination or destination location within the proximity tolerances.

(D) Cochran patent does not disclose that the areas of interest are alternative hotels/resorts or otherwise correspond to alternative itineraries.

(E) Appellant question whether the Cochran system is considered analogous art to the claimed invention according to MPEP 2141.01(a).

(F) Neither Tagawa nor the Walker, taken individually or in combination, teach or suggest determining values for a requested itinerary and alternative itineraries, sending at least one price-to-beat request based upon the value and receiving a response including a service provider travel itinerary that may be the same, or comparable, to the travel itinerary or an alternative itinerary.

(G) Walker does not teach or suggest that the traveler determines the price the traveler is willing to pay for ticket based upon a value associated with a requested itinerary and values associated with alternative itinerary.

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(H) Tagawa and Walker patents cannot be properly combined according to MPEP 2143.01 because the proposed modification of the prior art cannot render the prior art unsatisfactory for its intended purpose.

Examiner will address Appellant's arguments in sequence as they appear in the brief.

Response to Arguments (A) and (B):

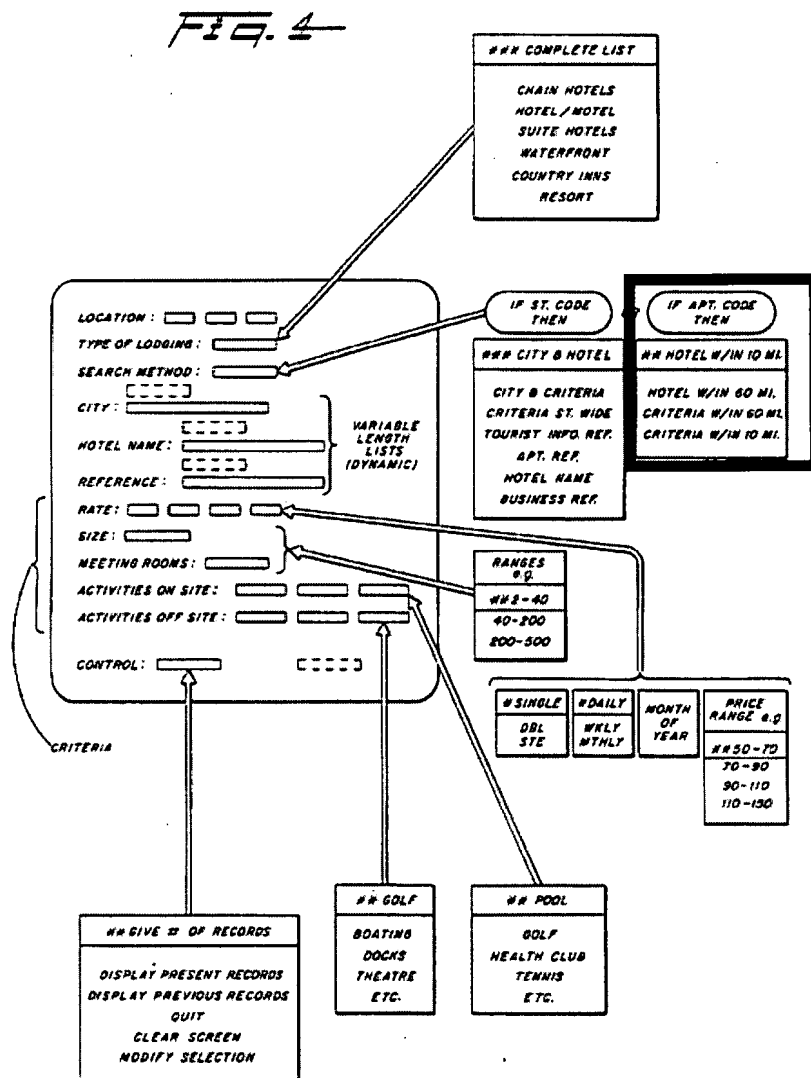
In response to the first and second arguments, the Examiner respectfully submits that Tagawa teaches at Fig. 3, that a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). In addition, Tagawa teaches at block 312, a user is instructed to press a HELP button that will cause a sub-routine to be activated to offer one or two choices that are different from the first recommended choice based on the predetermined priority system (see: column 13, lines 11-17). Furthermore, Tagawa teaches that after a user selects destination, the destination area selected may be further refined. For example, if the destination is Las Vegas, the system will query the user make a decision on three possible destination areas: along the Las Vegas Strip, downtown Las Vegas, or properties off the Strip (see: column 16, lines 55-60). This clearly indicates that a user specifies a origin and destination that is later shown as well as using a HELP button (sub-routine) that includes one or two choices different from the first choice.

Response to Arguments (C) and (D):

In response to the third and fourth arguments, the Examiner respectfully submits that Tagawa is relied for teaching a requesting at Fig. 3, where a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel,

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and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). Cochran et al. is relied on for teachings proximity tolerance such as in one particular embodiment, a structured database of hotel and resort information records are searched and records are selected using any of the following qualifiers or selected search terms: proximity to another location, e.g. larger city, number of accommodations available; proximity to specific area of interest such as a tourist attractions, business location or airports (see: column 5, lines 63 to column 6, lines 7). Cochran et al. further teaches that the selected search terms for searching through the structured database include a search method that displays "IF APT. CODE THEN" section including parameter for the user to determine the appropriate distance to search from a particular hotel, tourist attractions, business location or airports (see: Fig. 4, in particular the "IF APT. CODE THEN" section).



Response to Argument (E):

In response to the third and fourth arguments, The Examiner respectfully submits it has been held that a prior art reference must either be in the field of Appellant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the Appellant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, although Cochran is not in the travel itinerary field, it is clearly pertinent to the problem of proximity tolerances specifying a user's

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acceptable distance range (see: Cochran column 5, lines 63 to column 6, lines 7 and Fig. 4). The Examiner considers searching a database of hotel and resort information using qualifiers or selected search terms such as proximity to another location, proximity to specific area of interest and also using selected search terms to determine the appropriate distance to search from a particular hotel, tourist attractions, business location or airports (see: Fig. 4) meets the requirements for MPEP 2141.01(a). As such, it is respectfully submitted that Cochran is clearly analogous art.

Response to Argument (F):

In response to the sixth argument, the Examiner respectfully submits that Tagawa is relied for teaching an interactive travel service system that includes a user pressing a button for local or intrastate tour packages (216, Fig. 3) using a CPU (78, Fig. 3) that activates a routine illustrated in Fig. 7A-7C (see: column 14, lines 16-18). For example, in the Hawaii market (original location), a list of major tour packages (400, 402, Fig. 7a) is between the islands of Oahu, Kauai, Maui, Molokai, Lanai and Hawaii (the Big Island) (destination location and alternative destination) (see: column 14, lines 18-24). In addition, Tagawa teaches at Fig. 3, a user is asked for an airline preference, as well as to input flight segment data, including origin, destination, date of travel, and time of date of travel for departure and once answered a flight schedule with prices will be displayed (see: column 15, lines 25-50). Walker is relied on for teaching at least one price-to-beat request such as a method and apparatus for the sale of flight tickets where the user submits a bid to purchase an unspecified-time ticket for a specific itinerary, and that the traveler is willing to pay \$375 for the ticket (see column 6, lines 45-51). That is, a price-to-beat request is sent to a selected service provider with a value associated with

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the determined value for the travel itinerary. Further, Walker discloses that the reservation system, after determining that the traveler may be supplied with a ticket conforming to their time and value constraints, prints a ticket for the actual flight with the actual flight number and the departure/arrival times. The airline then transmits the ticket to the traveler (see column 15, lines 3-17). In this fashion, the traveler receives a response from the service provider with information and a value on a travel itinerary.

Response to Argument (G):

In response to the seventh argument, the Examiner respectfully submit that Walker teaches a method and apparatus for the sale of flight tickets where the user submits a bid to purchase an unspecified-time ticket for a specific itinerary, and that the traveler is willing to pay \$375 for the ticket (see: column 6, lines 45-51). That is, a price-to-beat request is sent to a selected service provider with a value associated with the determined value for the travel itinerary. Further, Walker discloses that the reservation system, after determining that the traveler may be supplied with a ticket conforming to their time and value constraints, prints a ticket for the actual flight with the actual flight number and the departure/arrival times. The airline then transmits the ticket to the traveler (see: column 15, lines 3-17). This clearly shows that a traveler determines the date and price for a ticket, and this request is submitted to participating airlines according to restriction set forth by the traveler. Once a participating airline accepts the request by the traveler a ticket is transmitted to the traveler.

Response to Argument (H):

In response to the eighth argument, the Examiner respectfully submits Walker teaches a method and apparatus for the sale of flight tickets where the user submits a bid to purchase an

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unspecified-time ticket for a specific itinerary, and that the traveler is willing to pay \$375 for the ticket (see column 6, lines 45-51). That is, a price-to-beat request is sent to a selected service provider with a value associated with the determined value for the travel itinerary. Further, Walker discloses that the reservation system, after determining that the traveler may be supplied with a ticket conforming to their time and value constraints, prints a ticket for the actual flight with the actual flight number and the departure/arrival times. The airline then transmits the ticket to the traveler (see column 15, lines 3-17). In this fashion, the traveler receives a response from the service provider with information and a value on a travel itinerary. Furthermore, section 2143.01 of the MPEP also states “Although statements limiting the function or capability of a prior art device require fair consideration, simplicity of the prior art is rarely a characteristic that weighs against obviousness of a more complicated device with added function.” *In re Dance*, 160 F.3d 1339, 1344, 48 USPQ2d 1635, 1638 (Fed. Cir. 1998) (Court held that claimed catheter for removing obstruction in blood vessels would have been obvious in view of a first reference which taught all of the claimed elements except for a “means for recovering fluid and debris” in combination with a second reference describing a catheter including that means. The court agreed that the first reference, which stressed simplicity of structure and taught emulsification of the debris, did not teach away from the addition of a channel for the recovery of the debris.). Therefore, the system of Walker teaching user/buyer pricing is only one embodiment of the reservation system and transmitting a ticket to the traveler clearly is representation of receiving a response from a service provider with information on the service providers travel itinerary as recited in claims 11, 22, 33 and 34.

In addition, the Examiner recognizes obviousness is not determined by what the

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references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lala*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)).

Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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